

General Information Letter: Explanation of the computation of income double-taxed by Missouri and Illinois.

August 4, 2003

Dear:

This is in response to your letter dated July 21, 2003. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at www.revenue.state.il.us.

In your letter you have stated the following:

Please be advised that the Illinois Department of Revenue (IDR) modified the Illinois Schedule CR to exclude military pay from Missouri based income which did not contain any military pay. This correction resulted in a balance due of \$402.38, including penalties and interest. We are paying the amount of \$402.38, for 2002 Illinois taxes due as a result of the correction, in protest. We are being forced to deduct military pay from Missouri base income, which does not include any military monies. Once you review the Illinois Schedule CR procedures, you will see that provisions were not made for income, from other states, which does not include military dollars. We expect a refund of the \$402.38, plus applicable interest.

Response

I have reviewed your 2002 return and the adjustments we made to it. On your Schedule CR, you reported that \$102,556 in income was double-taxed by Illinois and Missouri. This amount appears to have been determined by subtracting Mr. Z's \$5,045 in military pay from your \$107,601 in Illinois base income. This computation is in error, because Mr. Z's military pay is not included in your Illinois base income and because it exceeds the \$90,867 in income from Missouri sources you reported to Missouri on the Form MO-1040.

The Department reduced your double-taxed income to \$85,822 by subtracting Mr. Z's \$5,045 in military pay from the \$90,867 in income from Missouri sources. This is also in error, because the \$5,045 was not included in the \$90,867.

The correct amount of double-taxed income in this case is the \$91,952 in wages on which you were taxed by the City of St. Louis. Because the City taxes you on wages without any subtractions, this amount exceeds the income from Missouri sources reported on your Form MO-1040. When this amount is used, the credit allowed on the Schedule CR should be \$2,553, rather than the \$2,848 you claimed or the \$2,383 we originally allowed.

When the correct amount of credit is allowed, your original return would still show an underpayment. However, we are abating any late payment penalty. We will refund the overpayment that results from making these adjustments. If you believe that the payment you receive is erroneous, you should file a claim for refund on Form IL-1040-X.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel – Income Tax